

AMENDMENTS TO LB 994

(Amendments to E & R amendments, AM7178)

Introduced by Jensen, 20

1           1. Insert the following new sections:

2           Sec. 79. Section 71-101, Revised Statutes Supplement,  
3   2005, is amended to read:

4           71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to  
5   71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, ~~and 71-2801~~  
6   ~~to 71-2823~~ and the Physical Therapy Practice Act shall be known and  
7   may be cited as the Uniform Licensing Law.

8           For purposes of the Uniform Licensing Law, unless the  
9   context otherwise requires:

10          (1) Board or professional board means one of the boards  
11   appointed by the State Board of Health pursuant to sections 71-111  
12   and 71-112;

13          (2) Licensed, when applied to any licensee in any of the  
14   professions named in section 71-102, means a person licensed under  
15   the Uniform Licensing Law;

16          (3) Profession or health profession means any of the  
17   several groups named in section 71-102;

18          (4) Department means the Department of Health and Human  
19   Services Regulation and Licensure;

20          (5) Whenever a particular gender is used, it is construed  
21   to include both the masculine and the feminine, and the singular  
22   number includes the plural when consistent with the intent of the

1 Uniform Licensing Law;

2           (6) License, licensing, or licensure means permission to  
3 engage in a health profession which would otherwise be unlawful  
4 in this state in the absence of such permission and which is  
5 granted to individuals who meet prerequisite qualifications and  
6 allows them to perform prescribed health professional tasks and use  
7 a particular title;

8           (7) Certificate, certify, or certification, with respect  
9 to professions, means a voluntary process by which a statutory,  
10 regulatory entity grants recognition to an individual who has met  
11 certain prerequisite qualifications specified by such regulatory  
12 entity and who may assume or use the word certified in the title or  
13 designation to perform prescribed health professional tasks. When  
14 appropriate, certificate means a document issued by the department  
15 which designates particular credentials for an individual;

16           (8) Lapse means the termination of the right or privilege  
17 to represent oneself as a licensed, certified, or registered person  
18 and to practice the profession when a license, certificate, or  
19 registration is required to do so;

20           (9) Credentialing means the totality of the process  
21 associated with obtaining state approval to provide health care  
22 services or human services or changing aspects of a current  
23 approval. Credentialing grants permission to use a protected  
24 title that signifies that a person is qualified to provide the  
25 services of a certain profession. Credential includes a license,  
26 certificate, or registration; and

27           (10) Dependence means a compulsive or chronic need for

1 or an active addiction to alcohol or any controlled substance or  
2 narcotic drug.

3 Sec. 117. Sections 117 to 144 of this act shall be known  
4 and may be cited as the Physical Therapy Practice Act.

5 Sec. 118. The purpose of the Physical Therapy Practice  
6 Act is to update and recodify statutes relating to the practice of  
7 physical therapy. Nothing in the act shall be construed to expand  
8 the scope of practice of physical therapy as it existed prior to  
9 the operative date of this section.

10 Sec. 119. For purposes of the Physical Therapy Practice  
11 Act, the definitions found in sections 120 to 135 of this act  
12 apply.

13 Sec. 120. Approved educational program means a program  
14 for the education and training of physical therapists and physical  
15 therapist assistants approved by the board pursuant to section 143  
16 of this act.

17 Sec. 121. Board means the Board of Physical Therapy.

18 Sec. 122. Department means the Department of Health and  
19 Human Services Regulation and Licensure.

20 Sec. 123. Direct supervision means supervision in which  
21 the supervising practitioner is physically present and immediately  
22 available and does not include supervision provided by means of  
23 telecommunication.

24 Sec. 124. Evaluation means the process of making clinical  
25 judgments based on data gathered from examination of a patient.

26 Sec. 125. General supervision means supervision either  
27 onsite or by means of telecommunication.

1           Sec. 126. Jurisdiction of the United States means any  
2 state of the United States, the District of Columbia, the  
3 Commonwealth of Puerto Rico, or any American territory.

4           Sec. 127. Mobilization or manual therapy means a group of  
5 techniques comprising a continuum of skilled passive movements to  
6 the joints or related soft tissues, or both, throughout the normal  
7 physiological range of motion that are applied at varying speeds  
8 and amplitudes, without limitation.

9           Sec. 128. Non-treatment-related tasks means clerical,  
10 housekeeping, facility maintenance, or patient transportation  
11 services related to the practice of physical therapy.

12           Sec. 129. Physical therapist means a person licensed to  
13 practice physical therapy under the Physical Therapy Practice Act.

14           Sec. 130. Physical therapist assistant means a person  
15 certified as a physical therapist assistant under the Physical  
16 Therapy Practice Act.

17           Sec. 131. Physical therapy or physiotherapy means:

18           (1) Examining, evaluating, and testing individuals  
19 with mechanical, physiological, and developmental impairments,  
20 functional limitations, and disabilities or other conditions  
21 related to health and movement and, through analysis of the  
22 evaluative process, developing a plan of therapeutic intervention  
23 and prognosis while assessing the ongoing effects of the  
24 intervention;

25           (2) Alleviating impairment, functional limitation, or  
26 disabilities by designing, implementing, or modifying therapeutic  
27 interventions which may include any of the following: Therapeutic

1 exercise; functional training in home, community, or work  
2 integration or reintegration related to physical movement and  
3 mobility; therapeutic massage; mobilization or manual therapy;  
4 recommendation, application, and fabrication of assistive,  
5 adaptive, protective, and supportive devices and equipment;  
6 airway clearance techniques; integumentary protection techniques;  
7 nonsurgical debridement and wound care; physical agents or  
8 modalities; mechanical and electrotherapeutic modalities; and  
9 patient-related instruction; but which does not include the making  
10 of a medical diagnosis;

11 (3) Purchasing, storing, and administering topical  
12 and aerosol medication in compliance with applicable rules and  
13 regulations of the Board of Pharmacy regarding the storage of such  
14 medication;

15 (4) Reducing the risk of injury, impairment, functional  
16 limitation, or disability, including the promotion and maintenance  
17 of fitness, health, and wellness; and

18 (5) Engaging in administration, consultation, education,  
19 and research.

20 Sec. 132. Physical therapy aide means a person who  
21 is trained under the direction of a physical therapist and who  
22 performs treatment-related and non-treatment-related tasks.

23 Sec. 133. Student means a person enrolled in an approved  
24 educational program.

25 Sec. 134. Testing means standard methods and techniques  
26 used to gather data about a patient. Testing includes surface  
27 electromyography and, subject to approval of the board, fine

1 wire electromyography. Testing excludes diagnostic needle  
2 electromyography.

3           Sec. 135. Treatment-related tasks means activities  
4 related to the practice of physical therapy that do not require  
5 the clinical decisionmaking of a physical therapist or the clinical  
6 problem solving of a physical therapist assistant.

7           Sec. 136. (1) No person may practice physical therapy,  
8 hold oneself out as a physical therapist or physiotherapist, or  
9 use the abbreviation PT in this state without being licensed by  
10 the department. No person may practice as a physical therapist  
11 assistant, hold oneself out as a physical therapist assistant, or  
12 use the abbreviation PTA in this state without being certified by  
13 the department.

14           (2) A physical therapist may use the title physical  
15 therapist or physiotherapist and the abbreviation PT in connection  
16 with his or her name or place of business. A physical therapist  
17 assistant may use the title physical therapist assistant and the  
18 abbreviation PTA in connection with his or her name.

19           (3) No person who offers or provides services to another  
20 or bills another for services shall characterize such services as  
21 physical therapy or physiotherapy unless such services are provided  
22 by a physical therapist or a physical therapist assistant acting  
23 under the general supervision of a physical therapist.

24           Sec. 137. The following classes of persons shall not be  
25 construed to be engaged in the unauthorized practice of physical  
26 therapy:

27           (1) A member of another profession who is credentialed by

1 the department and who is acting within the scope of practice of  
2 his or her profession;

3 (2) A student in an approved educational program who is  
4 performing physical therapy or related services within the scope  
5 of such program and under the direct supervision of a physical  
6 therapist;

7 (3) A person practicing physical therapy or as a physical  
8 therapist assistant in this state pursuant to federal regulations  
9 for state licensure of health care providers for the United States  
10 Armed Forces, the United States Public Health Service, or the  
11 United States Department of Veterans Affairs;

12 (4) A person credentialed to practice physical therapy  
13 or as a physical therapist assistant in another jurisdiction of  
14 the United States or in another country who is teaching physical  
15 therapy or demonstrating or providing physical therapy or related  
16 services in connection with an educational program in this state;

17 (5) A person credentialed to practice physical therapy  
18 in another jurisdiction of the United States or in another country  
19 who, by contract or employment, is providing physical therapy  
20 or related services in this state to individuals affiliated with  
21 established athletic teams, athletic organizations, or performing  
22 arts companies while such teams, organizations, or companies are  
23 present and temporarily practicing, competing, or performing in  
24 this state; or

25 (6) A person employed by a school district, educational  
26 service unit, or other public or private educational institution  
27 or entity serving pre-kindergarten through twelfth grade students

1 who is providing personal assistance services, including mobility  
2 and transfer activities, such as assisting with ambulation with  
3 and without aids; positioning in adaptive equipment; application  
4 of braces; encouraging active range-of-motion exercises; assisting  
5 with passive range-of-motion exercises; assisting with transfers  
6 with or without mechanical devices; and such other personal  
7 assistance services based on individual needs as are suitable  
8 to providing an appropriate educational program.

9           Sec. 138. Section 71-2803, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~71-2803~~ Every applicant for a license to practice  
12 physical therapy shall:

13           (1) Present proof of completion of an approved  
14 educational program; ~~as defined in section 71-2804;~~

15           (2) In the case of an applicant who has been trained  
16 as a physical therapist in a foreign country, (a) present  
17 documentation of completion of a course of professional instruction  
18 substantially equivalent to an approved program accredited by the  
19 ~~American Physical Therapy Association~~ Commission on Accreditation  
20 in Physical Therapy Education or by an equivalent accrediting  
21 agency as determined by the ~~Board of Physical Therapy board~~ and (b)  
22 present proof of proficiency in the English language; and

23           (3) ~~Except as provided in section 71-2805, successfully~~  
24 Successfully complete an examination approved by the department ~~on~~  
25 ~~the upon~~ recommendation of the board.

26           Sec. 139. Every applicant for a certificate to practice  
27 as a physical therapist assistant shall:



1           (1) Present proof of completion of an approved  
2 educational program; and

3           (2) Successfully complete an examination approved by the  
4 department upon recommendation of the board.

5           Sec. 140. Section 71-2810, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           ~~71-2810 Notwithstanding any other provisions of law, a~~

8 (1) A physical therapist assistant may perform physical therapy  
9 services when he or she renders such services under the general  
10 supervision of a licensed physical therapist, or group of licensed  
11 physical therapists approved by the board, except that no physical  
12 therapist assistant shall perform the following:

13           ~~(1)~~ (a) Interpretation of physician referrals;

14           ~~(2)~~ Plan treatment programs (b) Development of a plan of  
15 care;

16           ~~(3)~~ (c) Initial evaluations or reevaluation of patients;

17           ~~(4)~~ (d) Readjustment of treatment programs a plan of care  
18 without consultation with the certified and licensed supervising  
19 physical therapist; or

20           ~~(5)~~ (e) Discharge planning for patients. Tests and  
21 measurements, with the exception of goniometry and functional  
22 muscle testing;

23           ~~(6) Home instructions to patients or families;~~

24           ~~(7) Joint assessment and mobilization; or~~

25           ~~(8) Complex neurodevelopmental treatments.~~

26           (2) A physical therapist may provide general supervision  
27 for no more than two physical therapist assistants. A physical

1 therapist shall not establish a satellite office at which a  
2 physical therapist assistant provides care without the general  
3 supervision of the physical therapist.

4 (3) A physical therapist shall reevaluate or reexamine on  
5 a regular basis each patient receiving physical therapy services  
6 from a physical therapist assistant under the general supervision  
7 of the physical therapist.

8 (4) A supervising physical therapist and the physical  
9 therapist assistant under general supervision shall review the plan  
10 of care on a regular basis for each patient receiving physical  
11 therapy services from the physical therapist assistant.

12 (5) A physical therapist assistant may document physical  
13 therapy services provided by the physical therapist assistant  
14 without the signature of the supervising physical therapist.

15 (6) A physical therapist assistant may act as a clinical  
16 instructor for physical therapist assistant students in an approved  
17 educational program.

18 Sec. 141. (1) For each patient under his or her care, a  
19 physical therapist shall:

20 (a) Be responsible for managing all aspects of physical  
21 therapy services provided to the patient and assume legal liability  
22 for physical therapy and related services provided under his or her  
23 supervision;

24 (b) Provide an initial evaluation and documentation of  
25 the evaluation;

26 (c) Provide periodic reevaluation and documentation of  
27 the reevaluation;

1           (d) Provide documentation for discharge, including the  
2 patient's response to therapeutic intervention at the time of  
3 discharge; and

4           (e) Be responsible for accurate documentation and billing  
5 for services provided.

6           (2) For each patient under his or her care on each date  
7 physical therapy services are provided to such patient, a physical  
8 therapist shall:

9           (a) Provide all therapeutic interventions that require  
10 the expertise of a physical therapist; and

11           (b) Determine the appropriate use of physical therapist  
12 assistants or physical therapy aides.

13           Sec. 142. A physical therapy aide may perform  
14 treatment-related and non-treatment-related tasks under the  
15 supervision of a physical therapist or a physical therapist  
16 assistant.

17           Sec. 143. Section 71-2804, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           ~~71-2804~~ The board may approve programs for ~~For~~ purposes  
20 of sections 71-2801 to 71-2823, approved educational program  
21 shall mean a program of physical therapy or physical therapist  
22 assistant education and training. ~~approved by the Board of Physical~~  
23 ~~Therapy.~~ Such approval may be based on the program's accreditation  
24 by the American Physical Therapy Association Commission on  
25 Accreditation in Physical Therapy Education or by equivalent  
26 standards established by the board.

27           Sec. 144. Section 71-2807, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~71-2807 The Board of Physical Therapy shall, with the~~  
3 ~~approval of the department, adopt and promulgate rules and~~  
4 ~~regulations as necessary for the administration of sections 71-2801~~  
5 ~~to 71-2823. Such rules and regulations shall include, but not~~  
6 ~~be limited to, a definition for onsite supervision of a physical~~  
7 ~~therapist assistant and the proper utilization of such assistant~~  
8 ~~by a physical therapist and what constitutes an emergency not~~  
9 ~~requiring onsite supervision of a licensed physical therapist.~~  
10 The department, upon recommendation of the board, shall adopt and  
11 promulgate rules and regulations to carry out the Physical Therapy  
12 Practice Act. All rules and regulations adopted and promulgated  
13 under this section prior to the operative date of this section  
14 shall be effective until revised, amended, repealed, or nullified  
15 pursuant to law.

16           Sec. 155. Original sections 71-2803, 71-2804, 71-2807 and  
17 71-2810, Reissue Revised Statutes of Nebraska, and section 71-101,  
18 Revised Statutes Supplement, 2005, are repealed.

19           Sec. 156. The following sections are outright repealed:  
20 Sections 71-2801, 71-2802, 71-2803.01, 71-2805, 71-2808, 71-2809,  
21 71-2811, 71-2812, 71-2814, 71-2815, 71-2816, 71-2817, 71-2819,  
22 71-2820, 71-2821, 71-2822, and 71-2823, Reissue Revised Statutes of  
23 Nebraska.

24           2. Correct the operative date section so that the  
25 sections added by this amendment become operative three calendar  
26 months after the adjournment of this legislative session.

27           3. Renumber the remaining sections accordingly.